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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,724	12/10/2001	Yoshiko Iida	862.C2465	3633
5514	7590	02/08/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			PATEL, SHEFALI D	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,724

Applicant(s)

IIDA ET AL.

Examiner

Shefali D. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-7, 10 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-7, 10 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11/7/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment was received on 7 November 2005.
2. The title of the invention stands objected under the specification.
3. Claims 1-2, 8-9 and 11-12 have been cancelled.
4. Claim objection made to claim 6 still stands as previously noted. Please see below for further detail.

Information Disclosure Statement

5. The information disclosure statement (IDS) was submitted on 7 November 2005. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

6. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

7. Claim 6 is objected to because of the following informalities: Claim 6 lines 1-2 recites "...wherein the combination of the color data..." Please note that "combination" is recited in claim 4 and not claim 3. There is insufficient antecedent basis for this limitation in the claim. Perhaps, claim 6 ought to depend on claim 4 and not claim 3. Note, "the combination" implies an antecedent "combination" which does not exist. Moreover, for the "combination" to be considered, there has to be some correlation in the data, as it is claimed in claim 6, implying that there is one combination. However, there is no such combination in claim 3, the color data and spectral distribution data are acquired in separate "acquisition sections". The examiner recommends that the applicant change the claim language from "the combination" to "both". If a different meaning is intended, (i.e. there is a "combination") there

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is a lack of antecedent basis and a further amendment is needed to claim 3 to define the correlation of elements.

Appropriate correction is required.

8. The following quotations of 37 CFR § 1.75(a) is the basis of objection:

(a) The specification must conclude with a claim particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention or discovery.

9. Claim 13 is objected to under 37 CFR § 1.75(a) as failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention or discovery.

The examiner noticed that claim 13 recites "A computer program product stored on a computer readable medium..." However, it is unclear what really is this program product as it is not clear from the specification. The examiner do not see this computer program product disclosed anywhere in the specification. The specification does not describe in detail the limitations recited at lines 1-3 of claim 13. Applicant is invited to point to the section of the specification that provides support for this limitation, or to amend the specification to provide such support (i.e., without adding new matter).

The following will be assumed for examination purposes: The computer program product stored on a computer readable medium will be assumed to a system for this communication.

Drawings

10. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "computer program product stored on a computer readable medium" claimed in claim 13 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include

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all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 3-7, 10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohsawa (US 6,980,231).

With regard to **claim 3** Ohsawa discloses an image processing apparatus (Figures 1 and 5) comprising: a first acquisition section (camera 3, Figures 1 and 5), arranged to acquire color data of an object (col. 5 lines 13-21); a second acquisition section (camera 8, Figures 1 and 5), arranged to acquire spectral distribution data (col. 5 lines 44-54), which is necessary to estimate spectral distribution data of a total wavelength region, from a plurality of spectral distribution data in accordance with the acquired color data (col. 5 line 60 to col. 6 lines 1-30); an estimator (matrix M), arranged to estimate the spectral

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distribution data of the total wavelength region on the basis of the spectral distribution data acquired by said second acquisition section (col. 6 line 31 to col. 7 lines 1-22).

With regard to **claim 4** Ohsawa discloses spectral distribution data acquired by said second acquisition section is defined as a combination of the spectral distribution data (camera 8 and at col. 6 lines 33-41).

With regard to **claim 5** Ohsawa discloses a generator arranged to generate the spectral distribution data of the total wavelength region from the color data acquired by said first acquisition section and the spectral distribution data of the total wavelength region estimated by said estimator (col. 6 lines 19-41).

With regard to **claim 6** Ohsawa discloses the color data and the configuration of the spectral distribution data acquired by said second acquired acquisition section is predetermined (col. 5 lines 54-59).

With regard to **claim 7** Ohsawa discloses the spectral distribution data acquired by the second acquisition section is arbitrarily changeable (P' to XYZ to R'G'B' at col. 7 line 53 to col. 9 line 41).

Claim 10 recites identical features as claim 1 except claim 10 is a method claim. Thus, arguments similar to that presented above for claim 1 is equally applicable to claim 10.

Claim 13 recites identical features as claim 1 except claim 13 is a computer readable claim. Thus, arguments similar to that presented above for claim 1 is equally applicable to claim 13. Note the storage unit 22 in Ohsawa for further processing at later time.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shefali D. Patel whose telephone number is 571-272-7396. The examiner can normally be reached on M-F 8:00am - 5:00pm (First Friday Off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Mancuso can be reached on (571) 272-7695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Shefali D Patel
Examiner
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February 3, 2006


JOSEPH MANCUSO
SUPERVISORY PATENT EXAMINER